

## REMARKS

### INTRODUCTION

In accordance with the foregoing, no claims have been canceled, no claims have been amended, and no claims have been added. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-20 are pending and under consideration. Reconsideration is respectfully requested.

### REJECTION UNDER 35 U.S.C. §102

In the Office Action, at page 2, claims 1-9 and 11-19 were rejected under 35 U.S.C. §102(b) in view of U.S. Patent No. 6,328,551 issued to Takatsugi et al. The reasons for the rejection are set forth in the Office Action and therefore not repeated. This rejection is traversed and reconsideration is respectfully requested.

Regarding claims 1 and 11, the Applicants respectfully traverse the rejection because Takatsugi fails to teach or suggest:

storage means for storing the control programs created in the NC program format in a way that distinguishes between a program to be executed periodically and a program to be executed according to an execution command (claim 1); and

a storage to store the control programs created in the NC program format in a way that distinguishes between a program to be executed periodically and a program to be executed according to an execution command (claim 11).

The Applicants respectfully submit that the Examiner's interpretation of the above-recited features is clearly inconsistent with the specification. During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *Manual of Patent Examination Procedure (MPEP)* § 2111 (citing *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). The Patent and Trademark Office determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification" as it would be interpreted by one of ordinary skill in the art." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005 en banc) (citing *in re Am. Acad. Of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004)). The specification of the present application makes no mention whatsoever of distinguishing between a program to be executed periodically and a program to be executed according to an execution

command based solely on storage location. Accordingly, the Applicants respectfully submit that Takatsugi fails to teach or suggest the storage means or the storage, as recited in the claims.

In addition, the Applicants respectfully submit that the sections of Takatsugi cited for teaching the storage means and the storage fail to mention programs created in the NC program format to be executed periodically and a program created in the NC program format to be executed according to an execution command. Thus, for this reason also, the Applicants respectfully submit that Takatsugi fails to teach or suggest the storage means or the storage, as recited in the claims.

The Applicants respectfully submit that since Takatsugi fails to teach or suggest all of the features of claims 1 or 11, these claims are allowable over Takatsugi. Thus, withdrawal of the 102 rejection is respectfully requested.

Regarding the rejection of claims 2-9 and 12-19, these claims depend directly or indirectly on one of independent claims 1 or 11, and are therefore believed to be allowable for at least the reasons noted above.

#### ALLOWABLE SUBJECT MATTER

The Applicants acknowledge with appreciation that claims 10 and 20 have been found to contain allowable subject matter. However, the Applicants respectfully submit that independent claims 1 and 11 are allowable as set forth above. Accordingly, claims 10 and 20 are believed to be allowable as is.

#### CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.


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If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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